

DEPARTMENT OF STATE REVENUE
LETTER OF FINDINGS NUMBER: 03-0151P
Use Tax
Calendar Years 1999, 2000, and 2001

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ISSUE(S)

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer is a multinational company headquartered out of state with a manufacturing plant and distribution center in Indiana. At audit, it was determined that the taxpayer failed to self assess and remit use tax for approximately eight percent (8%) of its previously untaxed taxable purchases such as magazines and subscriptions, computer software, mats, office cabinets, maintenance equipment, laptop computers, electrical supplies, office supplies, and various other miscellaneous items.

The taxpayer was previously audited in 1996 and 1999.

I. Tax Administration – Penalty

DISCUSSION

Taxpayer requests that the penalty assessed be waived because it made a good faith effort to comply with all of the sales and use tax laws in the state. In the future, it will make every effort to pay all the sales and use taxes that are due.

45 IAC 15-11-2(b) states, "Negligence, on behalf of the taxpayer is defined as the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer. Negligence would result from a taxpayer's carelessness, thoughtlessness, disregard or inattention to duties placed upon the taxpayer by the Indiana code or department regulations. Ignorance of the listed tax laws, rules and/or regulations is treated as negligence. Further, failure to read and follow instructions provided by the department is treated as negligence. Negligence

shall be determined on a case by case basis according to the facts and circumstances of each taxpayer.”

The taxpayer failed to self-assess and remit tax on approximately eight percent (8%) of its untaxed taxable purchases, some of which were issues in the prior audits, and has not provided reasonable cause to allow the department to waive the penalty.

FINDING

Taxpayer’s protest is denied.